



**Sanford Heisler
Sharp McKnight, LLP**
17 State Street, 37th Floor
New York, NY 10004
Telephone: (646) 402-5650
Fax: (646) 402-5651
www.sanfordheisler.com

Russell Kornblith, Partner and General Counsel
(646) 402-5646
rkornblith@sanfordheisler.com

New York | Washington, DC | San Francisco | Palo Alto | Nashville | San Diego

March 18, 2025

Via ECF and Email

The Honorable Katherine Polk Failla
United States District Court
Southern District of New York
40 Foley Square, Room 2103
New York, NY 10007
Failla_NYSDChambers@nysd.uscourts.gov

MEMO ENDORSED

Re: *Jiin Ko v. Swiftly Systems, Inc., et al*, Case No. 25-CV-1833 (KPF)

Dear Judge Failla,

Pursuant to Rule 9 of the Court’s Individual Rules of Practice in Civil Cases, Plaintiff Jiin Ko moves to file under seal an unredacted copy of her Supplemental Declaration in Support of a Preliminary Injunction. Plaintiff makes this request because of the risks to potential witnesses discussed therein. She seeks to redact the names, titles, and other personally identifiable information of the current Swiftly employees with whom she has spoken about complaints against they may have against Swiftly and/or their willingness to provide testimony in support of her claims. The limited redactions that Plaintiff proposes will prevent her declaration from becoming “a vehicle for improper purposes”—namely, Swiftly’s retaliation against or intimidation of the potential witnesses identified in her declaration. *See Bernstein v. Bernstein Litowitz Berger & Grossmann LLP*, 814 F.3d 132, 142 (2d Cir. 2016) (citation omitted).

When a party seeks to limit public access to a judicial document, the court must “determine the weight of the presumption of access to that document.” *Mirlis v. Greer*, 952 F.3d 51, 59 (2d Cir. 2020) (citation omitted). Here, that weight is “relatively modest”: Plaintiff’s sealing request “focuses only on redactions of certain names and limited, targeted information . . . As a result, the public will be able to read and understand each document even with the redacted information.” *Citgo Petroleum Corp. v. Starstone Ins. SE*, No. 1:21-CV-389-GHW, 2023 WL 7497858, at *2 (S.D.N.Y. Nov. 9, 2023); *see also United States v. UCB, Inc.*, No. 14-CV-2218 (TPG), 2017 WL 838198, at *5 (S.D.N.Y. Mar. 3, 2017) (permitting the redaction of a name due to fear of retaliation, where “[t]he public can still glean from this opinion the substance of [plaintiff’s] arguments and the manner in which [the court] handled them”).

The court must also “identify all of the factors that legitimately counsel against disclosure of the judicial document, and balance those factors against the weight properly accorded the

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presumption of access.” *Mirlis*, 952 F.3d at 59. Here, “[t]he privacy interests of innocent third parties . . . should indeed weigh heavily,” given that several of Ms. Ko’s former colleagues have told her that they fear for their jobs if they speak up—the very fate that Ms. Ko has suffered. *See Citgo Petroleum*, 2023 WL 7497858, at *2 (quotation omitted) (permitting redactions where third parties had stated that they feared for their safety); Suppl. Ko Decl. ¶¶ 9-44. *See also Matthews v. N.Y. State Dep’t of Corr. & Cmty. Supervision*, No. 9:17-CV-503, 2023 WL 2664418, at *4 (N.D.N.Y. Mar. 28, 2023) (permitting the redaction of the identities of nonparty individuals who “may be subject to retaliation if their identities are revealed in the papers”).

The need to protect potential third-party witnesses outweighs the presumption of public access to the redacted portions of Plaintiff’s declaration. Plaintiff therefore respectfully requests that the Court authorize the sealed filing of her unredacted Supplemental Declaration in Support of a Preliminary Injunction with the narrowly tailored redactions presented to the Court in highlights. Plaintiff will also file a redacted, unsealed version.

Respectfully submitted,

/s/ Russell Kornblith

Jeremy Heisler (JH-0145)
 Russell Kornblith (RK-1950)
 Kate MacMullin (5693882)
 Miranda Katz (6016075)
 SANFORD HEISLER SHARP MCKNIGHT, LLP
 17 State Street, 37th Floor
 New York, New York 10004
 Telephone: (646) 402-5650
 Facsimile: (646) 402-5651
 jheisler@sanfordheisler.com
 rkornblith@sanfordheisler.com
 kmacmullin@sanfordheisler.com
 mkatz@sanfordheisler.com

Counsel for Plaintiff Jiin Ko

cc: Counsel of record via ECF

For the reasons stated above by counsel, the Court GRANTS the application to seal.

The Clerk of Court is directed to terminate the pending motion at docket entry 22 and to maintain docket entry 24 under seal, viewable to the Court and parties only.

Dated: March 20, 2025
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE